

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

JOSEPH LOWRY,

*Plaintiff,*

VS.

CITY OF LAMARQUE, TEXAS, KEITH §  
BELL, in his individual capacity and in his §  
official capacity, KIMBERLEY YANCY, §  
in her individual capacity and in her official §  
capacity, and RANDALL ARAGON, in his §  
individual capacity and in his official §  
capacity, §

*Defendants.*

§ 87(2)(b)

CIVIL CASE NO. 3:22-cv-00112

Jury

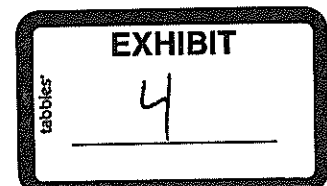
### DECLARATION OF J.B. PRITCHETT

State of Texas  
County of Galveston

I, Joshua B. Pritchett, declare as follows under the penalty of perjury:

1. "My name is J.B. Pritchett. I am over the age of twenty one (21) and I am fully competent to make this Affidavit. I have personal knowledge of the facts stated herein and they are all true and correct. I have personal knowledge of the facts stated herein because I am employed by the City of La Marque (City") as the Deputy City Manager. Prior to becoming the Deputy City Manager, I was hired by the City as the Public Relations Officer at the end of 2021.

2. I graduated from the University of Texas with dual degrees in Digital Communication/Multimedia and Public Administration. My graduate studies include a Masters of Business Administration from Oklahoma Wesleyan University and a MDIV in Organizational Leadership at Indiana Wesleyan University. Prior to working for the City of La Marque, I was the Managing Partner for Ready Set Go Inc. which was a team of digital marketing, social media & SEO consultants with professional expertise in helping corporate businesses with online marketing campaigns. We handled everything in-house from building SEO-friendly websites



to managing social media and running clients' PPC campaigns. I am currently a licensed minister of the international Wesleyan Church, which I serve as an Executive Pastor and Ministerial Development for my district. I have previously served in the United States Marine Corps.

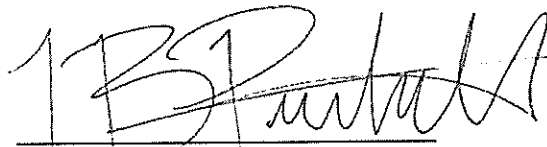
3. I am aware of Plaintiff's allegations that his Facebook posts were removed from the City of La Marque's Facebook page. The City has a social media policy and it created social media sites that constituted limited public forums. The policy and the social media site rules are attached as Exhibits A and B to this Declaration. They were created with the assistance of attorneys and with the assistance of county officials and municipal organizations who were creating similar sites. The social media sites can be administered by designated representatives of the City and the City hired a third party administrator, Archive Social, to help administer the sites. The Facebook site is subject to Facebook terms of service and some posts can be removed by Facebook and some posters can be suspended by Facebook if they violate Facebook's terms and conditions.

4. Both before Plaintiff's Complaint in this case was filed, after it was filed and continuing on, Plaintiff, through several Joseph Lowry accounts posted many, many unruly comments, photos, videos on the City's Facebook page that insulted the City of La Marque, administration. Those comments were not removed and remain today.

5. It is my understanding that it would be the policy of the City that any administration of the limited public forum Facebook page would be done in a content neutral fashion. I have not observed any pattern, practice or custom by City of La Marque officials violating citizens' Constitutional rights. That would certainly not be the policy of the City. I am not aware of any pattern of complaints against officials regarding similar allegations (Facebook post removal allegations) other than those made by the Plaintiff."

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 30th day of October 2024.



JOSHUA B. PRITCHETT

## City of La Marque **SOCIAL MEDIA POLICY**

### A. Purpose

The City of LA Marque has an overriding interest and expectation in deciding what is “spoken” or published, on behalf of The City of La Marque, on social media sites. This policy establishes guidelines for the use of City of La Marque Social Media Sites and governs the use, administration, management, monitoring and retention of social media and social media content, consistent with state and federal laws and regulations.

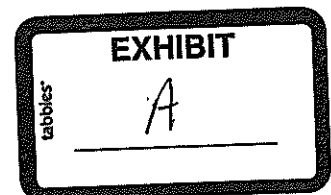
To address the fast-changing landscape of the Internet and the way residents communicate and obtain information online, The City of La Marque's departments may consider using social media tools to reach a broader audience. The City of La Marque encourages the use of social media to further the goals of The City of La Marque and the missions of its departments, where appropriate.

### B. Scope

This Policy applies to all interactive Social Media Sites of the The City of La Marque, the uses of social media by The City of La Marque employees maintaining, using, or providing oversight of social media tools. The term “Employee(s)” for this policy shall include, but not be limited to: full-time or part-time employees, Board of Director members, and Review Board members. This policy also applies to members of the public who comment or otherwise interact with City of La Marque through its social media websites or platforms.

### C. Definitions

1. **SOCIAL MEDIA SITES or PLATFORMS** – Third party websites or applications which allow for the creation of content and dialogue around a specific issue or area of interest, including Facebook, Twitter, Instagram, LinkedIn, TikTok and YouTube.
2. **LA MARQUE SOCIAL MEDIA SITES or PLATFORMS** – Those pages, sections, or posting locations in Social Media that are established or maintained by an employee of the the city who is authorized to do so within the scope of the employee’s assigned duties and that are used to conduct official city business, communicate with the public on city business.
3. **SOCIAL MEDIA CONTENT** – Information, images or photographs posted or provided to a Social Media Site by a La Marque employee or authorized representative when such activity is within the course and scope of the employee’s assigned duties.
4. **SOCIAL MEDIA CONTENT** – Information, images, or photographs posted or provided to a Social Media Site or Platform.
5. **SOCIAL MEDIA ADMINISTRATORS** – La Marque employees expressly designated by the City Manager to maintain oversight of their La Marque Social Media Sites or Platforms. A Social Media Administrator’s authority is limited to actions that directly reflect guidance from the City Manager and these policies.



6. La Marque INFORMATION SYSTEMS – This term shall be defined to include but not be limited to: Computers, wired and wireless networks, City of La Marque-issued cellular telephones, City of La Marque-issued tablets.

D. Responsibilities

1. Each Social Media Administrator is responsible for:
  - a. Implementing the provisions of this Policy and ensuring that Employees are aware of this Policy for creating and maintaining La Marque Social Media Sites or Platforms;
  - b. Ensuring that content that is inappropriate or violates this Policy is not posted on La Marque Social Media Sites or Platforms established and maintained by La Marque;
  - c. Ensuring that the approval is sought from the City Manager or his designee prior to the creation of La Marque Social Media Sites or Platforms;
  - d. Ensuring the La Marque's Social Media Sites or Platforms are regularly maintained and kept current;
  - e. Reviewing, frequently, information posted to City of La Marque's Social Media Sites or Platforms to ensure the content is appropriate, professional, and consistent with GCAD's policies and the purpose for which the Site or Platform exists;
  - f. Ensuring that La Marque - created and any reposted information is consistent with this Policy and that such information is accurate, professionally presented, respectful, relevant, and on topic with La Marque's communication goals, with reasonable care taken to ensure that grammar and spelling are correct and mistakes are corrected quickly; and
  - g. Keeping the department supervisor informed of La Marque's communication and outreach goals, as well the available social networking tools and activities.
2. Each department supervisor is responsible for ensuring that department employees are aware of this policy, adhere to this Policy and shall:
  - a. Review all requests to establish additional official City of La Marque Social Media Sites or Platforms and recommend approval or denial to the Public Information Officer. Social Media Administrators shall review the submitted request to ensure that it is in compliance with this Policy and shall submit the request, to the City Manager, for approval of such sites within 30 days of the effective date of this Policy; and
  - b. Review all requests to post or generate department-specific content via official City of La Marque Social Media Sites or Platforms and recommend approval or denial to the Public Information Officer. Social Media Administrators shall review or generate the content for Social Media Sites or Platforms to ensure that they are in compliance with this Policy and La Marque Communication objectives. Social Media Administrators shall submit the request, to the City Manager, within 30 days of the effective date of this Policy.

## E. Policy

### 1. CREATION AND MAINTENANCE OF LA MARQUE SOCIAL MEDIA SITE or PLATFORM

La Marque Social Media Sites or Platforms may contain information that represents, or may create the appearance of representing, La Marque's position on policy issues and/or the positions of its leadership. No employee may create or maintain a Social Media Site or Platform that purports to or appears to be a La Marque Social Media Site or Platform without the permission of both the Public Information Officer and the City Manager, or his designee. Before any Employee or department representative creates a La Marque Social Media Site, an approved request must be received from the City Manager or his designee. The request must state the business necessity for the La Marque Social Media Site. For any La Marque Social Media Sites currently in existence, the department must submit a request for approval within 30 days of the effective date of this Policy.

Once a La Marque Social Media Site or Platform is approved by the City Manager, or his designee, the following information must be recorded with La Marque Administration including, but not limited to the; City Manager, Executive Assistant to the City Manager, Public Information Officer, Director of Information Technology, and Social Media Administrator:

- a. All City of La Marque Social Media Site or Platform login and password information (in the case of Facebook, you may make the Public Information Officer an administrator of the site instead of providing the password);
- b. Any changes to the login and password; and
- c. The names of any persons who are authorized to access or maintain the City of La Marque Social Media Site or to post City of La Marque Social Media Content ("Administrators").

At the direction of the City Manager, or his designee, the Public Information Officer may disable a City of La Marque Social Media Site and prohibit posting of any City of La Marque Social Media Content to a site any time and for any reason, including any violation of this Policy, unprofessional use of this resources, lack of use or misuse by the public, or a failure to maintain the site.

### 2. PUBLIC RECORDS

City of La Marque Social Media Sites or Platforms create official records that are subject to the Texas Public Information Act and document retention rules of the State of Texas. The records administrator with the assistance of the Public Information Officer, shall ensure that such records are retained and archived in conformance with Texas law.

### 3. POSTING ON City of La Marque SOCIAL MEDIA SITES or PLATFORMS

Employees creating, maintaining, or posting Social Media Content on any City of La Marque Social Media Site:

- a. Must, at all times, conduct themselves as representatives of City of La Marque and in accord with all City of La Marque Personnel Policies and other department or management rules or directives;
- b. Will follow these guiding principles:
  - i. Never comment on anything related to legal matters, litigation, or any parties with whom City of La Marque may be in litigation without the approval of the Staff Attorney or the City Manager;

- ii. Understand that postings are widely accessible, not retractable, and retained or referenced for a long period of time; all content should be carefully considered;
- iii. Refrain from the expression of personal opinions or positions regarding:
  - i. Programs or practices of other public agencies, political organizations, private companies, or non-profit groups;
  - ii. Political campaigns; or
  - iii. Religion.
- iv. Unless the Employee is posting or responding as the Social Media Administrator, the Employee should maintain transparency by using his/her given name and job title and clearly stating the Employee's role regarding the subject;
- v. Use correct grammar and spelling;
- vi. Avoid jargon;
- vii. Write and post only about areas of expertise;
- viii. Keep post factual and accurate;
- ix. Do not post photographs, submitted by the public, that were taken at City of La Marque-related events held in public places unless you have permission from the photographer;
- x. Reply to comments in a timely manner, when a response is appropriate. When disagreeing with others' opinions or providing comments, do so in a meaningful, respectful, and relevant manner;
- xi. Ensure that Social Media Content does not violate another person's privacy interests;
- xii. Refrain from posting Social Media Content that is proprietary, copyrighted, attorney-client privileged, subject to state or federal privacy laws, and information not subject to the Texas Public Information Act;

#### 4. DESIGN AND CONTENT OF City of La Marque SOCIAL MEDIA SITES

- 1. The following shall be clearly posted on any City of La Marque Social Media Site or Platform:

- a. *"The purpose of this site is to present matters of public interest regarding the City of La Marque. We encourage you to submit comments, but please note that this is not a public forum. City of LA Marque Social Media Sites or Platforms that permit interactivity with the public through comments or postings are limited forum sites and should clearly post the following statement:  
The City of LA Marque reserves the right to delete completely or hide, when necessary and as soon as feasible, any posting unrelated to the purpose and topical scope of the page. By posting to*

*this Site or Platform, you agree to adhere to the posted policies, procedures, and guidelines.*

- b. A clear statement of the intent, purpose, and subject matter of the site, so the public is aware of the topical scope of the page;
  - c. City of La Marque Communications email, [pr@cityoflamarque.org](mailto:pr@cityoflamarque.org)
  - d. Link to the City of La Marque website, [www.cityoflamarque.org](http://www.cityoflamarque.org)
2. In addition, City of La Marque Social Media Sites or Platforms that permit interactivity with the public, comments, or posting should post clear statements of the following:
- a. All content and postings are subject to public disclosure pursuant to the Texas Public Information Act and e-discovery laws;
  - b. Disclaimer that postings do not necessarily reflect the views or position of the City of La Marque; and
  - c. Disclaimer that comments, messages, and any other communication with the City of La Marque via social media is not considered proper notice under the Texas Property Tax Code.
  - d. This site is NOT monitored 24 hours a day.
3. The City of La Marque reserves the right to delete completely or hide, when necessary and as soon as feasible, any posting that contains:
- a. Content that is not topically related to the particular posting by City of La Marque;
  - b. Content that contains false or misleading information;
  - c. Content that contains obscene language, sexual content, or links to sexual content;
  - d. Advertisements or content that is commercial in nature;
  - e. Content that threatens, defames, or personally attacks any person or organization;
  - f. Content that promotes, perpetuates, or fosters discrimination on the basis of age, gender, race, religion, color, national origin, physical or mental disability, sexual orientation, marital status, and/or gender identity;
  - g. Content that implies, promotes, or encourages illegal activity;
  - h. Content that opposes or supports political candidates, political organizations, or ballot propositions;
  - i. Content that is contrary to the safety of City of La Marque employees, the public, or public systems;
  - j. Content that violates the legal ownership of another party or infringes on copyright, trademark or other intellectual property rights;



k. Links to any site; or

l. Content that is confidential according to the Texas Public Information Act.

Links placed on City of La Marque Social Media Sites or Platforms should only be to a resource on the City of La Marque's website, a City of La Marque-owned website, a state, federal or local government site, an educational website, or an organization with an official partnership or supportive business relationship with the City of La Marque. Exceptions to this rule shall be at the discretion of the Public Information Officer, or his designee.

#### 5. USE BY BOARDS OR COMMISSIONS

Due to open meetings requirements, individual members of City Council, Review Board, and any other board or commission are prohibited from participating in postings or discussion threads on City of La Marque Social Media Sites or Platforms created and maintained by the City of La Marque.

#### 6. EMPLOYEE STANDARD FOR USE OF SOCIAL MEDIA

All uses of social media on behalf of the City of La Marque or in any manner that appears to represent the City of La Marque or constitute communication by the City of La Marque, must comply with the provisions in this Policy, including the following standards:

- a. No City of La Marque employee may establish any Social Media Site in the name of or on behalf of the City of La Marque unless:
  1. The Public Information Officer, or his designee, and the City Manager have all approved the Site; and
  2. All information to be posted on the account has been approved by the City Manager and Public Information Officer;
- b. Social Media Sites or Platforms, established by the City of La Marque, are to be used for City of La Marque business purposes only. Use for communications and postings that are not directly related to the City of La Marque or City of La Marque department business purpose is prohibited;
- c. Employees must report unauthorized uses of City of La Marque Social Media Sites or Platforms, City of La Marque Social Media Content, and comments or media that violate this Policy to the Public Information Officer and/or City Manager, or his designee; and
- d. Employees are expected to be attentive and careful in their use of social media. Employees should be aware that their use of social media may be perceived as representing the City of La Marque and local government, and should tailor their use accordingly.

#### 7. UNACCEPTABLE USES BY EMPLOYEES

City of La Marque considers the activities and uses listed below to be unacceptable uses of social media established by City of La Marque:

- a. Using social media in a manner that does not comply with federal, state, local laws and regulations, and with City of La Marque or department policies;
- b. Using social media in a manner that;



1. Violates copyright, trademark, or other intellectual property rights of any person or entity, or otherwise violates their legal ownership interests;
2. Includes ethnic slurs, profanity, personal insults, material that is harassing, defamatory, fraudulent or discriminatory, or other content or communications that would not be acceptable in a City of La Marque workplace under the Personnel Policy or department policy or practice;
3. Violates the terms of contracts governing the use of any social media content, including, but not limited to, software and other intellectual property license;
4. Displays sexually explicit images, cartoons, jokes, messages, or other material in violation of the City of La Marque sexual harassment policy;
5. Relates to Political Policy or Activity;
6. Contains confidential information that is protected from release pursuant to the Texas Public Information Act or "for official use only" information or information that does or may compromise the security of City of La Marque networks or information systems. Confidential information includes, but is not limited to medical information, social security numbers, and other personally identifiable information;
7. Violates the terms of use governing third-party websites that allow for the creation of social media sites;
8. Violates any Section of this Policy.

#### 9. PERSONAL SOCIAL MEDIA ACCOUNTS

This Policy is not intended to govern Employees' establishment or use of person social media sites for personal purposes, outside the workplace, and using non-City of La Marque information systems. However, some personal uses of social media may reflect on the City of La Marque or appear to represent City of La Marque policy or to be on behalf of the City of La Marque. In addition, access and use of personal social media accounts by means of City of La Marque information systems are subject to City of La Marque policy. For these reasons, Employees are expected to comply with all City of La Marque and department policies, as well as the following standards, when using personal social media accounts:

- a. City of La Marque employees have no right to privacy with respect to their personal use of social media or personal social media accounts accessed by means of City of La Marque information systems, or with respect to personal social media content so accessed. Employees should not expect or assume privacy or confidentiality with respect to any such personal social media use or social media content;
- b. Posts and user profiles on personal social media accounts must not state or imply that the views, conclusions, statements, or other social media content are an official policy statement, position, or communication of the City of La Marque, or represent the views of the City of La Marque or any City of La Marque officer or Employee, unless the Public Information Officer and/or City Manager, or his designee, have previously granted express written permission for that user to do so;
- c. If an Employee has not received such express written permission, any user profile, biography, or posting on a personal social media account that identifies that person as a City of La Marque employee must

include a qualifying statement in substantially the following form: "The views I express on this site are my own and do not reflect any official view or position of the City of La Marque;

- d. Employees may not attribute personal statements or opinions to the City of La Marque when engaging in private blogging or postings on social media sites or platforms;
- e. Employees and City of La Marque volunteers shall not post images, files, or text depicting City of La Marque property, equipment, or personnel in any manner that would adversely affect the reputation of the City of La Marque.
- f. Employees and City of La Marque volunteers shall not use their City of La Marque email account in conjunction with a personal social networking site.

#### 10. EXCEPTIONS

Exceptions to this policy shall be at the discretion of the City Manager, Public Information Officer, or designee.

#### 11. COMPLIANCE

Each City of La Marque Department head shall be responsible for enforcing compliance of this Policy by department Employees. An Employee who fails to comply with any aspect of this Policy is subject to disciplinary action, up to and including termination of employment.

#### 12. ACKNOWLEDGMENT

On this date, I received the Social Media Policy. I understand it is my responsibility to read and abide by this Policy. I understand that any clarification or explanation of this policy is available at my request from the Public Information Officer or the City Manager. After reading and signing this acknowledgment I will return it to the Human Resource Office.

## I. Media Policies

### II. Media Terms of Service

All social media sites serve as a limited public forum and all content published is subject to monitoring. Comments or posts may be hidden from public view if they violate the terms of service. City departments and employees contributing to and managing content on City Social Media Accounts must adhere to the following comment moderation criteria:

*Violates the Social Media Platform's terms of service;*

*Contains information about official City business that is legally deemed confidential and should not be made public;*

*Considered pornographic, obscene, or defamatory in nature, including links to inappropriate sexual content;*

*Openly advocates for violence or the threat of violence;*

*Openly discriminates against others or advocates for discrimination based on race, creed, color, age, religion, gender, genetic information, gender identity, sex, pregnancy status, sexual orientation, national origin, ethnicity, disability, veteran status, or any other legally protected class;*

*Solicitations of commerce or marketing of private business enterprises;*

*Encourage or promote illegal activity;*

*Include information that may compromise the safety or security of the public or public systems;*

*Appear to violate the intellectual property or copyright of any other party;*

*Content that is clearly off-topic, repetitive, or out of context and detracts from the original City Social Media Content.*

If photos, videos, or other media are solicited from the public through a City Social Media Account to increase public interaction, all content received must be accepted and remain public unless it fails to meet the criteria stated above.

\*Statements on the Social Media page will include:

- a. The reasons for which comments may be restricted from public view.
- b. That comments posted by others to City Social Media Accounts do not necessarily reflect the views or position of the City.
- c. Notifying people that "follows" from City Social Media Accounts does not reflect endorsements.

